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09/629,949	08/01/2000	Naochika Kogure	HOS-57	6990

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EXAMINER

PATTERSON, MARC A

ART UNIT

PAPER NUMBER

1772

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/629,949

Applicant(s)

KOGURE ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 12-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION****WITHDRAWN REJECTIONS**

1. The 35 U.S.C. 112 second paragraph rejections of Claims 1 – 8 and 12 – 15, 35 U.S.C. 103(a) of rejection Claim 1 – 2, 4 – 8 and 14 – 15 as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223), 35 U.S.C. 103(a) rejection of Claims 3 and 12 – 13 as being unpatentable over Sugawara et al. (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223) and further in view of Nishibori et al (U.S. Patent No. 5,801,205), of record on page 2 of the previous Action, are withdrawn.

**NEW REJECTIONS*****Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The abbreviations '(gf)' MT<sub>fr</sub>, 'MT<sub>rr</sub>', 'MFR<sub>rr</sub>' and 'MFR<sub>fr</sub>' are indefinite, as they have not been defined. The 'rr' and 'fr' in the abbreviations are particularly indefinite. For purposes of examination, the abbreviation (gf) will be assumed to mean 'grams,' 'MFR' will be assumed to mean 'melt flow rate' and 'MT' will be assumed to mean 'melt tension.' The phrases 'a foamed polypropylene resin' and 'a polypropylene resin layer' are indefinite as it is unclear if the layers are distinct layers. For purposes of examination, the phrases will be assumed to mean 'a first foamed polypropylene resin' and 'a second polypropylene resin layer.' The phrase 'a skin

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– bearing article of a polypropylene resin, which is obtained by molding a multi – layer foamed parison in a mold’ is indefinite as it is unclear if an article or a parison is being claimed. The phrase is also directed to a process, which is given little patentable weight as discussed below. For purposes of examination, it will be assumed that the parison is being claimed. The term ‘molding’ is indefinite as the type of molding is not claimed. The phrase ‘wherein at least part of the opposed inner surfaces of foamed polypropylene resin layer in the parison are mutually welded’ is indefinite as it is unclear if the phrase defines the results of the process, or if the parison surfaces are mutually welded before the process. For purposes of examination, the phrase ‘by molding a multi – layer foamed parison’ will be assumed to mean ‘by mutually welding the inner surfaces of a multi – layer foamed parison.’ The phrase is also directed to a process, which is given little patentable weight as discussed below. For purposes of examination, the claimed invention will be assumed to be a multi – layer foamed parison having its inner surfaces mutually welded. The phrase ‘when the melt flow rate is’ is indefinite as it is unclear if the melt flow rate has the particular value or not, and whether the melt tension has the stated value. For purposes of examination, it will be assumed that the melt flow rate is less than 0.3 g/ 10 minutes, and the melt tension has any value. Claim 1 recites the limitation "the opposed inner surfaces of the foamed parison" in line 8. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites the limitation "the outer side" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites the limitation "a first polypropylene resin" in line 12. There is insufficient antecedent basis for this limitation in the claim. Claim 1 recites the limitation "a second polypropylene resin" in line 17. There is insufficient antecedent basis for this limitation in the claim.

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4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The abbreviations '(gf)' MT<sub>fl</sub>, 'MT<sub>rl</sub>,' 'MFR<sub>rl</sub>' and 'MFR<sub>fl</sub>' are indefinite, as they have not been defined. The 'rl' and 'fl' in the abbreviations are particularly indefinite. For purposes of examination, the abbreviation (gf) will be assumed to mean 'grams,' 'MFR' will be assumed to mean 'melt flow rate' and 'MT' will be assumed to mean 'melt tension.' The abbreviation '(gf)' is indefinite, as it has not been defined. For purposes of examination, the abbreviation will be assumed to mean 'grams.' The phrase 'a skin – bearing article of a polypropylene resin, which is obtained by molding a multi – layer foamed parison in a mold' is indefinite as it is unclear if an article or a parison is being claimed. The phrase is also directed to a process, which is given little patentable weight as discussed below. For purposes of examination, it will be assumed that the parison is being claimed. The term 'molding' is indefinite as the type of molding is not claimed. The phrase 'wherein at least part of the opposed inner surfaces of foamed polypropylene resin layer in the parison are mutually welded' is indefinite as it is unclear if the phrase defines the results of the process, or if the parison surfaces are mutually welded before the process. For purposes of examination, the phrase 'by molding a multi – layer foamed parison' will be assumed to mean 'by mutually welding the inner surfaces of a multi – layer foamed parison.' The phrase is also directed to a process, which is given little patentable weight as discussed below. For purposes of examination, the claimed invention will be assumed to be a multi – layer foamed parison having its inner surfaces mutually welded. The phrase 'when the melt flow rate is' is indefinite as it is unclear if the melt flow rate has the particular value or not, and whether

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the melt tension has the stated value. For purposes of examination, it will be assumed that the melt flow rate is less than 0.3 g/ 10 minutes, and the melt tension has any value. Claim 2 recites the limitation "the opposed inner surfaces of the foamed parison" in line 8. There is insufficient antecedent basis for this limitation in the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 2 recites the limitation "the outer side" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claim 2 recites the limitation "a first polypropylene resin" in line 12. There is insufficient antecedent basis for this limitation in the claim. Claim 2 recites the limitation "a second polypropylene resin" in line 17. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 – 8 and 12 – 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223).

With regard to Claims 1 – 3 and 12 – 15, Sugawara et al disclose an article (an instrument panel for an automobile; column 6, lines 10 – 24) comprising a multilayer parison comprising two polypropylene layers, a resin layer and a foamed layer (the article therefore has a skin layer; column 6, lines 12 – 17); part of the parison is welded to itself (the parison is mutually welded; column 8, lines 36 – 44); the thickness of the resin layer is 1 – 10 mm (column 6, lines 28 – 29

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and 58 – 59) the instrument panel also constitutes a shock – absorber and container, for instruments. Sugawara et al fail to disclose a density of 25 to 400  $\text{kg/m}^3$  and a melt flow rate of 0.2 to 0.3 g/10 min.

Nishibori et al disclose a density of 25  $\text{kg/m}^3$  for a foamed layer for the interior of an automobile (column 2, lines 31 – 48) for the purpose of forming a foam which is light – weight and durable (column 1, lines 34 – 59). Sasaki et al teach the use of a polypropylene having a melt flow rate of greater than 0.3 grams / 10 minutes (column 3, lines 48 – 55) for the purpose of using a film having high moldability (column 1, lines 10 – 19). The desirability of providing for a density of 25  $\text{kg/m}^3$  and a melt flow rate of greater than 0.3 grams /10 minutes in Sugawara et al, which is a polypropylene foamed layer, would therefore have been obvious to one of ordinary skill in the art.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a density of 25  $\text{kg/m}^3$  in Sugawara et al in order to use a film having high moldability as taught by Nishibori et al and a melt flow rate of at least 0.3 grams /10 minutes in Sugawara et al in order to use a film having high moldability as taught by Sasaki et al.

With regard to Claim 1, Sasaki et al fail to teach a melt flow rate of at least 0.3 grams /10 minutes. However, Sasaki et al teaches a melt flow rate of greater than 0.3 grams /10 minutes as discussed above. Therefore, the melt flow rate would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. It therefore would be obvious for one of ordinary skill in the art to vary the melt flow rate, since the melt flow rate would be readily determined through routine optimization by one

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having ordinary skill in the art depending on the desired end result as shown by Sasaki et al. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

With regard to Claims 4 – 8, Sugawara et al. fail to disclose an article in which the welded portion comprises 25 % of the inner layer, and 60% of the inner layer, and 95% of the area of the inner layer, and a parison which comprises a third resin layer.

However, Sugawara et al. teach a welded portion which comprises 1% of the inner layer (part of the parison is mutually welded; column 8, lines 33 – 44), and a parison which comprises two resin layers as discussed above. Therefore, the percent of the inner layer contained in the welded portion and the number of resin layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end use of the product. Therefore, it would be obvious for one of ordinary skill in the art to vary the percent of the inner layer contained in the welded portion, and the number of resin layers, since the percent of the inner layer contained in the welded portion and the number of resin layers would be readily determined through routine optimization by one having ordinary skill in the art depending on the desired end result as shown by Sugawara et al. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

#### ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of Claims 1 – 8 and 12 – 15, 35 U.S.C. 103(a) of rejection Claim 1 – 2, 4 – 8 and 14 – 15 as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223), 35 U.S.C. 103(a) rejection of Claims 3 and 12 – 13 as being unpatentable over



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Sugawara et al. (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223) and further in view of Nishibori et al (U.S. Patent No. 5,801,205), of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn. The new 35 U.S.C. 112 second paragraph rejection of Claims 1 – 2 and 35 U.S.C. 103(a) rejection of Claim 1 – 8 and 12 – 15 as being unpatentable over Sugawara et al (U.S. Patent No. 5,714,227) in view of Sasaki et al (U.S. Patent No. 5,602,223) above are directed to amended Claims 1 – 8 and 12 – 15.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

*Marc Patterson*  
Art Unit 1772

*Harold Pyon*  
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*3/3/03*